

**Subpart B—Contracts****§ 1465.20 Applications for participation and selecting applications for contracting.**

(a) Any producer who has eligible land may submit an application for participation in AMA at a USDA service center. Producers who are members of a joint operation will file a single application for the joint operation.

(b) NRCS will accept applications throughout the year. The State Conservationist will distribute information on the availability of assistance, national priorities, and the State-specific goals. Information will be provided that explains the process to request assistance.

(c) The State Conservationist will develop ranking criteria and a ranking process to select applications, taking into account national, State, Tribal, and local priorities.

(d) The State Conservationist, or designated conservationist, using a locally-led process will evaluate, rank, and select applications for contracting based on the State-developed ranking criteria and ranking process.

(e) The State Conservationist, or designated conservationist, will work with the applicant to collect the information necessary to evaluate the application using the ranking criteria.

**§ 1465.21 Contract requirements.**

(a) In order for a participant to receive payments, the participant will enter into a contract agreeing to implement one or more eligible conservation practices. Costs for technical services may be included in the contract.

(b) An AMA contract will:

(1) Encompass all portions of an agricultural operation receiving AMA assistance;

(2) Have a minimum duration of one year after completion of the last practice, but not more than 10 years;

(3) Incorporate all provisions required by law or statute, including participant requirements to:

(i) Not conduct any practices on the agricultural operation that would tend to defeat the purposes of the contract according to § 1465.25;

(ii) Refund any AMA payments received with interest, and forfeit any fu-

ture payments under AMA, on the violation of a term or condition of the contract, consistent with the provisions of § 1465.25;

(iii) Refund all AMA payments received on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations, including operation and maintenance of the AMA contract's conservation practices, consistent with the provisions of § 1465.24; and

(iv) Supply information as required by NRCS to determine compliance with the contract and requirements of AMA.

(4) Specify the participant's requirements for operation and maintenance of the applied conservation practices consistent with the provisions of § 1465.22; and

(5) Specify any other provision determined necessary or appropriate by NRCS.

(c) The participant must apply the practice(s) according to the schedule set out in the APO.

**§ 1465.22 Conservation practice operation and maintenance.**

(a) The contract will incorporate the O&M agreement that addresses the operation and maintenance of the conservation practices applied under the contract.

(b) NRCS expects the participant to operate and maintain each conservation practice installed under the contract for its intended purpose for the conservation practice lifespan as specified in the O&M agreement.

(c) NRCS may periodically inspect the conservation practice(s) during the contract duration to ensure that operation and maintenance requirements are being carried out, and that the conservation practice is fulfilling its intended objectives.

(d) Conservation practices installed before the contract execution, but included in the contract to obtain the environmental benefits agreed upon, must be operated and maintained as specified in the contract and O&M agreement.

(e) If NRCS finds during the contract that a participant is not operating and

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maintaining practices in an appropriate manner, NRCS may terminate and request a refund of payments made for that conservation practice under the contract.

(f) In the event a conservation practice fails through no fault of the participant, the State Conservationist may issue payments to re-establish the conservation practice, at the rates established in accordance with §1465.23, provided such payments do not exceed the payment limitation requirements as set forth in §1465.23.

### § 1465.23 Payments.

(a) The Federal share of payments to a participant will be:

(1) Up to 75 percent of the estimated incurred cost or 100 percent of the estimated income foregone of an eligible practice, except as provided in (a)(2) of this section.

(2) In the case of historically underserved producers, the payment rate will be the applicable rate and an additional rate that is not less than 25 percent above the applicable rate, provided that this increase does not exceed 90 percent of the estimated incurred costs or estimated income foregone.

(3) In no instance will the total financial contributions for an eligible practice from other sources exceed 100 percent of the estimated incurred cost of the practice.

(b) Participants may contribute their portion of the estimated costs of practices through in-kind contributions, including labor and materials, providing the materials contributed meet the NRCS standard and specifications for the practice being installed.

(c) Payments for practices applied prior to application or contract approval—

(1) Payments will not be made to a participant for a conservation practice that was applied prior to application for the program.

(2) Payments will not be made to a participant for a conservation practice that was initiated or implemented prior to contract approval, unless the participant obtained a waiver from the State Conservationist, or designated conservationist, prior to practice implementation.

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(d) The total amount of payments paid to a person or legal entity under this part may not exceed \$50,000 for any fiscal year.

(e) For purposes of applying the payment limitations provided for in this section, NRCS will use the provisions in 7 CFR part 1400, Payment Limitation and Payment Eligibility.

(f) A participant will not be eligible for payments for conservation practices on eligible land if the participant receives payments or other benefits for the same practice on the same land under any other conservation program administered by USDA.

(g) The participant and NRCS must certify that a conservation practice is completed in accordance with the contract before NRCS will approve any payment.

(h) Subject to fund availability, the payment rates for conservation practices scheduled after the year of contract obligation may be adjusted to reflect increased costs.

### § 1465.24 Contract modifications, extensions, and transfers of land.

(a) The participant and NRCS may modify a contract if both parties agree to the contract modification, the APO is revised in accordance with NRCS requirements, and the designated conservationist approves the modified contract.

(b) It is the participant's responsibility to notify NRCS when he or she either anticipates the voluntary or involuntary loss of control of the land.

(c) The participant and NRCS may mutually agree to transfer a contract to another party.

(1) To receive an AMA payment, the transferee must be determined by NRCS to be eligible to participate in AMA and will assume full responsibility under the contract, including the O&M agreement for those conservation practices already installed and those conservation practices to be installed as a condition of the contract.

(2) With respect to any and all payment owed to participants who wish to transfer ownership or control of land subject to a contract, the division of payment will be determined by the original party and the party's successor. In the event of a dispute or